



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2016-0428]

Hours of Service of Drivers: Electronic Logging Devices; Application for Exemption; Truck Renting and Leasing Association, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that the Truck Renting and Leasing Association Inc.

(TRALA) has requested an exemption until December 31, 2018, from the electronic

logging device (ELD) requirements for all drivers of property-carrying commercial

motor vehicles rented for 30 days or fewer. A waiver for the same purpose and group of

drivers was issued to TRALA on January 19, 2018, and expires on April 19, 2018.

TRALA states that the waiver period, which is limited to 90 days, is not sufficient to

address the ELD problems that they and their short-term lessors are encountering. This

request, if granted, would provide rental-vehicle owners, carriers, and drivers with

additional time to develop compliance strategies for dealing with the unique issues

relating to the use of ELDs in short-term rental vehicles. TRALA believes that the

exemption, if granted, would not have any adverse impacts on operational safety, as

drivers would continue to remain subject to the hours-of-service regulations as well as the

requirements to maintain a paper record of duty status. FMCSA requests public comment

on TRALA's application for exemption.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA-2016-0428 by any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. See the Public Participation and Request for Comments section below for further information.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: 1-202-493-2251
- Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Tom Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366-4325. E-mail: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2016-0428), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to www.regulations.gov and put the docket number, "FMCSA-2016-0428" in the "Keyword" box, and click "Search." When the new screen appears, click on "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal**

Register (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

TRALA is a national trade association of companies whose members rent and lease vehicles. TRALA's membership encompasses the full spectrum of the industry, including major independent firms such as Budget, Enterprise Truck Rental, Penske Truck Leasing, Ryder System, and U Haul, as well as small and medium size businesses that generally participate as members of four leasing group systems, three of which are affiliated with a major manufacturer. TRALA states that it has nearly 500 members whose vehicles account for between 25-30% of all commercial motor vehicles (CMVs) on the highways today.

TRALA advised that operators of short-term CMV rentals face challenges in complying with the ELD requirements that no other segment of the industry faces. Businesses renting CMVs to customers must offer ELD compliance options for a variety of technical platforms. Motor carrier fleets use rental vehicles to meet seasonal demand, surges in other demands, or to replace breakdowns; these fleets will already have an ELD platform that in many cases will be different from the one installed on a rental truck.

TRALA states that FMCSA has recognized the unique compliance concerns of the short-term CMV rental vehicle market by granting a partial exemption from the ELD requirements for vehicles rented for no longer than 8 days (82 FR 47306, October 11,

2017). In addition, FMCSA has granted an ELD waiver to TRALA until April 19, 2018, for CMVs rented for no longer than 30 days (83 FR 2868, January 19, 2018).

TRALA states that since FMCSA's October 11, 2017, decision granting an exemption of only 8 days for rental trucks, TRALA members have taken several steps to resolve the ELD issues. These include meeting with customers, building cloud-based portal systems between ELD providers, and purchasing thousands of ELDs for rental trucks. Nevertheless, TRALA members and their customers state that they need additional time to come into full compliance with ELD requirements.

IV. Request for Exemption

TRALA is requesting an exemption until December 31, 2018, from the ELD requirements in 49 CFR Part 395, as applied to drivers of property-carrying CMVs rented for any reason for no longer than 30 days. Lessors of short-term CMV rentals are struggling to meet the current April 19, 2018, waiver expiration deadline. TRALA states that its members continue to work diligently with their customers, developing systems that will allow renters to record and report their hours seamlessly, and partnering with ELD providers to give the most options available to rental customers.

According to TRALA, every customer's needs are unique. An additional period through the end of this year to prepare for this transition would allow their members to continue resolving the issues presented by new technology and the need for individual customer-based compliance strategies. It would also allow lessors to meet seasonal demand for short-term rental vehicles through the holiday season in November and December of this year without disruptions.

TRALA states that allowing short-term CMV rental truck drivers to not comply with ELD requirements until December 31, 2018, will not have any impact on safety, nor will it provide a safe harbor for drivers who may try to avoid compliance with the hours-of-service (HOS) regulations in general. Nearly half the States now impose daily rental fees which are a significant disincentive to rent solely for the purpose of avoiding the ELD regulations.

TRALA also states that, if the exemption is granted, law enforcement officers would be better able to identify short-term rental vehicles. Under 49 CFR 390.21(e), a CMV rented for a period not to exceed 30 days is not required to be marked with the name and USDOT number of the operating motor carrier if the vehicle otherwise is marked with the lessor's name and USDOT number, and a copy of the rental agreement is carried in the vehicle in accordance with that provision. Enforcement officials inspecting such a vehicle would examine the short-term rental agreement to determine that the ELD requirement does not apply to that vehicle. The official would then check the driver's paper record of duty status for compliance with the HOS regulations.

According to TRALA, their members represent about 25-30% of CMVs on the road and are a key component of the trucking industry. Allowing a further

exemption through December 31, 2018, to continue the transition efforts ongoing since the final rule was published will give all businesses that use rental trucks comfort that systems can be deployed to better address the difficulties confronted by the rental truck market.

A copy of TRALA's application for exemption is available for review in the docket for this notice.

Issued on: March 5, 2018.

Larry W. Minor,

Associate Administrator for Policy.

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